

I. INTRODUCTION

Initially, Applicants would like to thank the Examiner for indicating that claims 7-9 would be allowed if amended to overcome the 35 U.S.C. § 112, second paragraph rejections, and to include the recitations of the base claim and any intervening claim.

In the present response, claims 7, 13 and 14 have been cancelled without prejudice, claims 1, 8 and 12 have been amended, and claims 15-17 have been added. Claims 2-6 were previously cancelled, without prejudice. Accordingly, claims 1, 8-12 and 15-17 are now under consideration in the present application. Provided above, please find a claim listing indicating the claim cancellations, claim amendments and current status of the claims on separate sheets so as to comply with the requirements set forth in 37 C.F.R. § 1.121. It is respectfully submitted that no new matter has been added.

II. REJECTION UNDER 35 U.S.C. § 112 SHOULD BE WITHDRAWN

Claims 7 and 9 stand rejected under 35 U.S.C. § 112, second paragraph as being allegedly indefinite. Specifically, the Examiner alleges that claim 7 recites a method where step (b) in independent claim 1 precedes step (c), and claim 9 [*sic*] (it is believe the Examiner meant claim 8) recites a method where step (b) in independent claim 1 precedes step (d). In the Office Action, the Examiner recommends claims 7 and 8 to be amended to incorporate the recitations of claims 13 and 14. As the Examiner shall ascertain, independent claim 1 has been amended to include the recitations of claims 7 and 13, and claim 8 has been rewritten in independent form to include the recitation of claim 14.

The Examiner further alleges that claim 8 is indefinite because claim 8 recites that the accelerated cooling is performed *when* a surface temperature is in a temperature range, and that the specification teaches performing accelerated cooling *until* a temperature range is reached. As the Examiner shall ascertain, claim 8 has been amended to recite, *inter alia*, accelerated cooling the head and a foot of the rail maintained in the upright position until one of (i) the surface temperature of the head of the rail reaches a temperature range of approximately 550° C. to 450° C., or (ii) a surface temperature of the foot of the rail reaches a temperature range of approximately 550° C. to 450° C. at a speed of substantially 1° C. per second to 20° C. per second while the foot of the rail is mechanically restrained on the cooling bed by a clamping apparatus.

Accordingly, for at least the reasons presented herein above, Applicants respectfully request that the 35 U.S.C. § 112, second paragraph rejection of claims 7 and 8 be withdrawn.

III. REJECTIONS UNDER 35 U.S.C. § 103 SHOULD BE WITHDRAWN

Claims 1 and 10-12 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Japanese Patent 590031824 (hereinafter “JP-824”).

As the Examiner shall ascertain, amended independent claim 1 has been amended to include the recitations of claim 7 which has been confirmed by the Examiner as including allowable subject matter (and claim 7 has been cancelled herein above), and claim 8 which has been confirmed by the Examiner as including allowable

subject matter has been rewritten in independent form. Claims 10-12 depend from amended independent claim 1, and claim 9 depends from claim 8.

Accordingly, for at least the reasons presented herein above, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1 and 10-12 as being allegedly unpatentable over JP-824.

IV. NEW CLAIMS 15-17

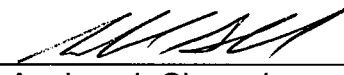
New claims 15-17 have been added. New claims 15-17 depend from amended claim 8, and include subject matter that is substantially similar to the subject matter recited in originally-filed claims 10-12. Accordingly, support for these new claims can be found in the originally-filed claims, specification and drawings. It is respectfully requested that a confirmation of patentability of these claims be provided in the next communication for this application to Applicants' representatives.

V. CONCLUSION

In light of the foregoing, Applicants respectfully submit that claims 1, 8-12 and 15-17 are in condition for allowance. Prompt consideration, reconsideration and allowance of the present application are therefore earnestly solicited. If any issues remain outstanding, the Examiner is invited to contact the undersigned via the telephone number provided below.

Respectfully submitted,

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